

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 351

97TH GENERAL ASSEMBLY

0682H.04P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 197.080 and 197.100, RSMo, and to enact in lieu thereof two new sections relating to hospital licensure.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 197.080 and 197.100, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 197.080 and 197.100, to read as follows:

197.080. **1.** The department of health and senior services, with the advice of the state  
2 advisory council and pursuant to the provisions of this section and chapter 536, shall adopt,  
3 amend, promulgate and enforce such rules, regulations and standards with respect to all hospitals  
4 or different types of hospitals to be licensed hereunder as may be designed to further the  
5 accomplishment of the purposes of this law in promoting safe and adequate treatment of  
6 individuals in hospitals in the interest of public health, safety and welfare. No rule or portion  
7 of a rule promulgated under the authority of sections 197.010 to 197.280 shall become effective  
8 unless it has been promulgated pursuant to the provisions of section 536.024.

9 **2. The department shall review and revise regulations governing hospital licensure**  
10 **and enforcement to promote hospital and regulatory efficiencies and eliminate duplicative**  
11 **regulations and inspections by or on behalf of state and federal agencies. The hospital**  
12 **licensure regulations adopted under this section shall incorporate standards which shall**  
13 **include, but not be limited to, the following:**

14 **(1) Each citation or finding of a regulatory deficiency shall refer to the specific**  
15 **written interpretive guidance developed by the department and any publicly available,**  
16 **professionally recognized standards of care that are the basis of the citation or finding;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           **(2) Subject to appropriations, the department shall ensure that its hospital licensure**  
18 **regulatory standards are consistent with and do not contradict the federal Centers for**  
19 **Medicare and Medicaid Services' (CMS) Conditions of Participation (COP) and associated**  
20 **interpretive guidance. However, this shall not preclude the department from enforcing**  
21 **standards produced by the department which exceed the federal CMS' COP and**  
22 **associated interpretive guidance, so long as such standards produced by the department**  
23 **do not contradict the federal CMS' COP and associated interpretive guidance;**

24           **(3) The department shall establish and publish guidelines for complaint**  
25 **investigation, including but not limited to:**

26           **(a) The department's process for reviewing and determining which complaints**  
27 **warrant an onsite investigation based on a preliminary review of available information**  
28 **from the complainant, other appropriate sources, and the hospital. For purposes of**  
29 **providing hospitals with information necessary to improve processes and patient care, the**  
30 **number and nature of complaints filed and the recommended actions by the department**  
31 **and, as appropriate CMS, shall be disclosed upon request to hospitals so long as the**  
32 **otherwise confidential identity of the complainant or the patient for whom the complaint**  
33 **was filed is not disclosed;**

34           **(b) The scope of a departmental investigation of a complaint shall be limited to the**  
35 **specific regulatory standard or standards raised by the complaint, unless a documented**  
36 **immediate and serious threat, as defined directly and through interpretive guidelines**  
37 **included in hospital licensure regulations promulgated under this chapter, is observed or**  
38 **identified during such investigation;**

39           **(c) A hospital shall be provided with a report of all complaints made against the**  
40 **hospital. Such report shall include the nature of the complaint, the date of the complaint,**  
41 **the department conclusions regarding the complaint, the number of investigators and days**  
42 **of investigation resulting from each complaint;**

43           **(4) Hospitals and hospital personnel shall have the opportunity to participate in**  
44 **annual continuing training sessions when such training is provided to state licensure**  
45 **surveyors. Hospitals and hospital personnel shall assume all costs associated with**  
46 **facilitating the training sessions and use of curriculum materials, including but not limited**  
47 **to the location for training, food, and printing costs;**

48           **(5) Timelines for the department to provide responses to hospitals regarding the**  
49 **status and outcome of pending investigations and regulatory actions and questions about**  
50 **interpretations of regulations shall be identical to, to the extent practicable, the timelines**  
51 **established for the federal hospital certification and enforcement system in the CMS State**  
52 **Operations Manual, as amended.**

53           **3. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
54 **created under the authority delegated in this section shall become effective only if it**  
55 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
56 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
57 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
58 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
59 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2013,**  
60 **shall be invalid and void.**

197.100. 1. Any provision of chapter 198 and chapter 338 to the contrary  
2 notwithstanding, the department of health and senior services shall have sole authority, and  
3 responsibility for inspection and licensure of hospitals in this state including, but not limited to  
4 all parts, services, functions, support functions and activities which contribute directly or  
5 indirectly to patient care of any kind whatsoever. The department of health and senior services  
6 shall annually inspect each licensed hospital and shall make any other inspections and  
7 investigations as it deems necessary for good cause shown. The department of health and senior  
8 services shall accept reports of hospital inspections from governmental agencies [and recognized  
9 accrediting organizations in whole or in part for licensure purposes if:

10           (1) The inspection is comparable to an inspection performed by the department of health  
11 and senior services;

12           (2) The hospital meets minimum licensure standards; and

13           (3) the inspection was conducted within one year of the date of license renewal] , **the**  
14 **joint commission, and the American Osteopathic Association Healthcare Facilities**  
15 **Accreditation Program, provided the accreditation inspection was conducted within one**  
16 **year of the date of license renewal. Prior to granting acceptance of any other accrediting**  
17 **organization reports in lieu of the required licensure survey, the accrediting organization's**  
18 **survey process must be deemed appropriate and found to be comparable to the**  
19 **department's licensure survey. It shall be the accrediting organization's responsibility to**  
20 **provide the department any and all information necessary to determine if the accrediting**  
21 **organization's survey process is comparable and fully meets the intent of the licensure**  
22 **regulations.** The department of health and senior services shall attempt to schedule inspections  
23 and evaluations required by this section so as not to cause a hospital to be subject to more than  
24 one inspection in any twelve-month period from the department of health and senior services or  
25 any agency or accreditation organization the reports of which are accepted for licensure purposes  
26 pursuant to this section, except for good cause shown.

27           2. Other provisions of law to the contrary notwithstanding, the department of health and  
28 senior services shall be the only state agency to determine life safety and building codes for  
29 hospitals defined or licensed pursuant to the provisions of this chapter, including but not limited

30 to sprinkler systems, smoke detection devices and other fire safety related matters so long as any  
31 new standards shall apply only to new construction.

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